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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,651	01/19/2007	Pierre Henry Servajean	GER0803US	8181

23413 7590 11/17/2010  
CANTOR COLBURN LLP  
20 Church Street  
22nd Floor  
Hartford, CT 06103

EXAMINER
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PIZIALI, ANDREW T

ART UNIT	PAPER NUMBER
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1798

NOTIFICATION DATE	DELIVERY MODE
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11/17/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

usptopatentmail@cantorcolburn.com



## **DETAILED ACTION**

### ***Response to Amendment***

1. The amendment filed on 10/8/2010 has been entered.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1, 3 and 8-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase “the technical yarn is a yarn is inclusive of continuous filaments” renders the claims indefinite. Said claim limitation is unclear. Correction is required.

### ***Claim Rejections - 35 USC § 102/103***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 3 and 8-11 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over USPN 2,483,861 to Weiss.

Weiss discloses a monolayer fabric comprising two yarns (warp and weft), a comfort yarn (weft) made of cellulose material and a technical yarn (warp) possessing good properties of resistance to abrasion and to temperature, these two yarns being woven so as to define at least two separate portions in the thickness of the fabric, a first outer portion (warp portion) predominantly of technical yarn and a second inner portion (weft portion) predominantly of comfort yarn, said portions being at least partially entangled, wherein the technical yarn is a yarn including continuous filaments, the core of which is covered over at least 75% of its surface by a coating at least partially comprising natural fibers (see entire document including column 3, lines 31-75, column 6, lines 29-55, and column 7, lines 15-26).

In the event that it is shown that the applied prior art does not disclose the claimed embodiment with sufficient specificity, the invention is obvious because the prior art specifically discloses the claimed constituents.

Regarding claim 3, the yarns are nontextured (column 4, lines 29-53).

Regarding claim 8, the core may comprise nylon or the like (column 3, lines 31-46 and column 7, lines 15-26).

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Regarding claim 9, the coating may comprise cotton (column 3, lines 47-75 and column 7, lines 15-26).

Regarding claims 10 and 11, the coating may comprise a resin (column 7, lines 27-47).

7. Claims 1, 3, 8 and 9 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over USPN 3,828,544 to Alker.

Alker discloses a monolayer fabric comprising two yarns (warp and weft), a comfort yarn (weft) made of cellulose material and a technical yarn (warp) possessing good properties of resistance to abrasion and to temperature, these two yarns being woven so as to define at least two separate portions in the thickness of the fabric, a first outer portion (warp portion) predominantly of technical yarn and a second inner portion (weft portion) predominantly of comfort yarn, said portions being at least partially entangled, wherein the technical yarn is a yarn including continuous filaments, the core of which is covered over at least 75% of its surface by a coating at least partially comprising natural fibers (see entire document including column 1, lines 25-56 and column 2, lines 11-61).

In the event that it is shown that the applied prior art does not disclose the claimed embodiment with sufficient specificity, the invention is obvious because the prior art specifically discloses the claimed constituents.

Regarding claim 3, the yarns are nontextured (column 2, lines 55-61).

Regarding claim 8, the core may comprise nylon or the like (column 2, lines 55-61).

Regarding claim 9, the coating may comprise cotton (column 2, lines 55-61).

***Response to Arguments***

8. Applicant's arguments filed 10/8/2010 have been fully considered but they are not persuasive.

The applicant asserts that Weiss fails to teach a fabric that includes two (different) types of yarns. Applicant's argument is not persuasive. Firstly, it is noted that the feature upon which applicant relies (i.e., the comfort yarn is a different type of yarn than the technical yarn) is not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Secondly, Weiss discloses that the warp yarns are sized while no sizing is applied to the weft yarns (column 3, lines 48-75). Therefore, the two yarns are different types of yarns. Weiss discloses a monolayer fabric comprising two yarns (warp and weft), a comfort yarn (weft) made of cellulose material and a technical yarn (warp) possessing good properties of resistance to abrasion and to temperature, these two yarns being woven so as to define at least two separate portions in the thickness of the fabric, a first outer portion (warp portion) predominantly of technical yarn and a second inner portion (weft portion) predominantly of comfort yarn, said portions being at least partially entangled (column 3, lines 31-75, column 6, lines 29-55, and column 7, lines 15-26).

The applicant asserts that Alker fails to teach a fabric that includes two (different) types of yarns. Applicant's argument is not persuasive. It is noted that the feature upon which applicant relies (i.e., the comfort yarn is a different type of yarn than the technical yarn) is not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988

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F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Alker discloses a monolayer fabric comprising two yarns (warp and weft), a comfort yarn (weft) made of cellulose material and a technical yarn (warp) possessing good properties of resistance to abrasion and to temperature, these two yarns being woven so as to define at least two separate portions in the thickness of the fabric, a first outer portion (warp portion) predominantly of technical yarn and a second inner portion (weft portion) predominantly of comfort yarn, said portions being at least partially entangled, wherein the technical yarn is a yarn produced from continuous filaments, the core of which is covered over at least 75% of its surface by a coating at least partially comprising natural fibers (column 1, lines 25-56 and column 2, lines 11-61).

### ***Conclusion***

9. Applicant's amendment necessitated any new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew T. Piziali whose telephone number is (571) 272-1541.

The examiner can normally be reached on Monday-Friday (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Ortiz can be reached on (571) 272-1206. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew T Piziali/  
Primary Examiner, Art Unit 1798